HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.828 of 2007

Between:

The A.P. Housing Board, represented by its Vice-Chairman and another. … Appellants

And

T. Vasudeva Reddy … Respondent

:: J U D G M E N T ::

Counsel for the appellants : Sri J. Prabhakar

Counsel for the respondent : Sri M.N. Narasimha Reddy for Sri G. Ramachandra Reddy.

9th October, 2007

Per G.S. Singhvi, C.J.

This is an appeal for setting aside order dated 29-10-2002 passed by the learned Single Judge in Writ Petition No.9498 of 2000, whereby she quashed demand notice dated 2-2-2000 issued by Executive Engineer (Housing), Western Division, Andhra Pradesh Housing Board, Hyderabad (for short "the Board") and granted relief to the writ petitioner in terms of the prayer made in the writ petition, wherein he sought a direction to the non-petitioners (the appellants herein) to complete the construction of House No.23, MIG.II, Kukatpalli Phase-VII and deliver possession on payment of the cost of Rs.3,10,000/-.

It is borne out from the record that in furtherance of the

notification dated 28-10-1995, the respondent applied for allotment of house and deposited 10% of the cost. He was allotted House No.23, MIG-II at Kukatapally Phase-VII and was directed to pay 20% of the cost in two instalments. Subsequently, appellant No.2 issued notice dated 2-2-2000 and called upon the respondent to pay the enhanced cost of Rs.4,41,900/-.

In the writ petition filed by him, the respondent challenged the demand of enhanced cost by contending that after having induced him to apply for allotment of house at a price of Rs.3,10,000/-, the non-petitioners cannot arbitrarily revise the same and create demand for additional cost.

The learned Single Judge quashed the demand only on the ground that basis of the revised cost was not disclosed in the demand notice.

Sri J.Prabhakar, learned counsel for the appellants, relied on Clause 23(2) of the Andhra Pradesh Housing Board MIG Houses Regulations and the judgment of the Supreme Court in **Delhi Development Authority V. Ashok Kumar Behal**[1] and argued that the learned Single Judge committed a serious error by nullifying the demand of enhanced cost ignoring the fact that the price indicated in the advertisement was tentative and the Board was entitled to work out the final cost and realise the same from the allottees.

Sri M.N.Narasimha Reddy, learned counsel for the respondent, lamented that the house allotted to the petitioner has not been completed so far and yet the appellants are demanding enhanced cost. Learned counsel submitted that failure of the appellants to deliver possession of the house after completing the construction disentitle them from demanding additional cost from the allottees. He then argued that without disclosing the basis of the revised cost, the appellants are not entitled to create demand for additional cost.

We have given serious thought to the respective arguments and scrutinised the record.

In our opinion, both the parties are to be blamed for extremely laconic pleadings, which impelled the learned Single Judge to dispose of the writ petition without critically examining the legality of the demand created vide notice dated 2-2-2000. While the writ petitioner (the respondent herein) did not produce copies of the application made by him in furtherance of notification dated 28-10-1995 and allotment letter, the non-petitioners in the writ petition (the appellants herein) did not even bother to file reply, what to say of producing the relevant records to justify enhancement of the cost.

In view of the above, we may have set aside the order under challenge and remanded the case to the learned Single Judge for fresh adjudication of the writ petition, but keeping in view the long lapse of time, we feel that ends of justice will be met by directing the appellants to furnish a statement of calculation on the basis of which demand for the enhanced cost was raised, with liberty to the respondent to file objections within two weeks of the supply of the details, with a further direction to the competent authority to pass appropriate order.

Hence, the appeal is disposed of in the following terms:

1) Within two weeks from today, the appellants shall furnish detailed calculation of the enhanced cost demanded from the respondent.

2) Within two weeks of receipt of the details, the respondent may submit his objections to the competent authority, who shall consider the same and pass appropriate order in next three weeks.

3) If the respondent has any legitimate grievance against the enhanced cost, then he can avail appropriate remedy.

4) If the respondent does not want to challenge the final determination of the enhanced cost, then he shall pay the same within the time specified by the competent authority. Thereafter, the concerned authority shall deliver possession of the house after removing all the deficiencies.

5) If the possession of the house has already been delivered, then the concerned authority shall, after payment of the balance cost, remove all the deficiencies.

G.S. SINGHVI, C.J.

9th October, 2007

C.V. NAGARJUNA REDDY, J.

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[1] (2002) 7 SCC 134.